

Serial No.: 09/678,573
Response to OA of 07/214/2005

Remarks

In the present response, two claims (1 and 11) are amended. Claims 1- 20 are presented for examination.

I. Entry of Claim Amendments

Claims 1 and 11 are amended in response to new rejections under 35 USC § 112. These rejections were not made in the previous Office Action, and Applicant made no previous amendments in the last response.

The amendments to claims 1 and 11 are made merely to reduce the number of disputes and place the application in a better form for appeal. As such, per 37 CFR 1.116(b), Applicant respectfully asks the Examiner to enter the amendments.

II. Claim Rejections: 35 USC § 112

Claims 1 and 11 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Applicant addresses each of the 35 USC § 112 rejections.

First, claims 1 and 11 are rejected for insufficient antecedent basis for "the presence of firewall protection." Applicant deletes "the presence of" to cure this rejection.

Second, claim 1 is rejected for reciting "standard web browser." Applicant deletes the term "standard" to cure this rejection.

Third, the Office Action states that the limitation "regardless of the presence of firewall protection in said requesting system" is unclear. Applicant respectfully traverses.

The Applicant notes that there are two separate requirements set forth in 35 U.S.C. 112, Second Paragraph:

- (A) the claims must set forth the subject matter that the Applicant regards as their invention; and,
- (B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant. (MPEP 2171).

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A rejection based on failing to set forth the subject matter that the Applicant regards as his invention is appropriate only where the Applicant has stated, somewhere other than in the application as filed, that the invention is something other than what is defined by the claims. In other words, the invention set forth in the claims must be presumed, in the absence of evidence to the contrary, to be that which the Applicant regards as his invention. (MPEP 2172(I)).

In regard to the requirement of particularly pointing out and distinctly defining the metes and bounds of the subject, it is accepted that the Applicant can define in the claims what he regards as his invention essentially in whatever terms he chooses, so long as the terms are not used in ways that are contrary to the accepted meanings in the art. (MPEP 2173.01). The Applicant may use any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. (Id.)

Basically, the acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification. (MPEP 2173.05(b)).

The Applicant has not stated that the invention is something other than what is defined by the claims. Further, Applicant has not used terms in ways that are contrary to the accepted meanings in the art. Additionally, one of ordinary skill in the art would understand what is being claimed in light of the specification.

The Office Action indicates that the claims are rejected because it is unclear whether the requesting system has a firewall or does not have a firewall. Applicant respectfully submits that alternative expressions are acceptable (see MPEP 2173.15(h): Example, "the language containing A, B, and optionally C was considered acceptable alternative language because there was no ambiguity as to which alternatives are covered by the claim.").

Accordingly, for at least the reasons set forth above, the Applicant contends that the claims, including claims 1 and 11, fully meet the requirements of 35 U.S.C. 112, second paragraph. The Applicant, therefore, respectfully requests that the rejections of claims 1 and 11 under 35 U.S.C. 112, second paragraph, be withdrawn.

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Response to Office Action Arguments

The Office Action contends that "Applicant has not claimed a firewall. Applicant has chosen to leave the claim vague as to whether a firewall is present." Applicants respectfully disagree.

Applicants argue that the claim limitation "regardless of firewall protection" is not vague. According to MPEP § 2111.01, words in a claim are given their ordinary and customary meaning as given to the term of those of ordinary skill in the art. Applicant argues that the term "regardless" has a known meaning to one of ordinary skill in the art. For example, Merriam-Webster online diction (www.m-w.com) defines "regardless" as follows:

Main Entry: **regardless of**

Function: *preposition*

: without taking into account <accepts all *regardless of age*>; also

: in spite of <*regardless of our mistakes*>.

In light of the dictionary and Applicant's specification, one of ordinary skill in the art can determine the meaning of limitations in the pending claims.

III. Claim Rejections: 35 USC § 102

Claims 1 – 9 and 11 – 19 are rejected under 35 U.S.C. § 102(a) as being anticipated by USPN 6,052,531 (Waldin). Applicant respectfully traverses.

A proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. See MPEP § 2131, also, *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Since Waldin neither teaches nor suggests each element in the rejected claims, these claims are allowable over Waldin.

Claim 1

Independent claim 1 recites numerous recitations that are not taught or suggested in Waldin. For example, claim 1 recites (emphasis added):

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a requesting system coupled to the Internet from which a user requests assistance from a support representative wherein said user utilizes a Web browser client to request said assistance.

The Office Action cites Waldin at col. 4, lines 1 – 12 for teaching these recitations. This section is reproduced below for convenience:

Referring to FIG. 1, a virus protection software application 110 which incorporates a number of virus detecting routines 112, and utilizes a number of data files containing virus information 114, is installed on a user's computer 116. Because of the rate at which new viruses are created, it is desirable to update the virus protection software applications on the user's computer frequently. These updates could take place as often as daily, or even more frequently if desired. Generally, these updated applications 110 will include only small changes to the data files 114, but sometimes larger changes to the virus detecting routines 112 will also be included.

Nowhere, for example, does this section of Waldin teach or suggest that a user requests assistance from a support representative. Further, nowhere does this section of Waldin teach or suggest that a user utilizes a Web browser client to request the assistance. In fact, nowhere does Waldin even discuss browsers or users utilizing browsers to request assistance.

In response to Applicant's argument, the Office Action contends that "Waldin discloses that a user's virus protection software is updated. An update is a request from a user from a support representative." For several reasons, Applicant respectfully disagrees. First, claim 1 recites that a user utilizes the Web browser to request **assistance from a support representative**. Waldin is directed to distributing incremental patches to update virus protection software to users. Nowhere does Waldin teach or suggest that a user uses

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a web browser to request "assistance from a support representative." Second, claim 1 recites that a "user" uses the browser to make a request for assistance. Waldin does not mention anywhere that users make requests for assistance from a support representative. By contrast, Waldin explicitly teaches that a program on the user's computer retrieves update software patches: "The updater program 126 determines what patch files 122 are necessary, retrieves them and applies them to the application to be updated 110" (col. 4, lines 38-40).

As yet another example, claim 1 recites (emphasis added):

a support representative system coupled to the Internet from which a support representative responds to the requesting user to provide assistance.

The Office Action cites Waldin at col. 4, lines 17 – 24 for teaching these recitations. This section is reproduced below for convenience:

Each time an updated software application 110 is produced by the virus protection software publisher, the updated form of the software application constitutes a new version. The software publisher uses an incremental update builder, such as binary patch file builder 120, to produce at least one incremental update, such as binary patch file 122, which can transform a previous version of the software application to the current version.

Nowhere, for example, does this section of Waldin teach or suggest that the support representative system responds to the requesting user to provide assistance. As noted above, the user in Waldin does not make a request. Instead, an updater program in the user's computer determines what patch files are necessary and retrieves them (see col. 4, lines 38-40). So, a "user" never makes a request in Waldin. Further, claim 1 recites that the user requests "assistance." Requests for assistance are not taught or suggested in

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Waldin. Instead, Waldin teaches methods and apparatus for distributing software update patches.

As still yet another example, claim 1 recites (emphasis added):

a collaboration server system ... for receiving a request for assistance and for processing said request for assistance.

The Office Action cites Waldin at col. 8, lines 28 – 57 for teaching these recitations. Applicant scrutinized this section. Nowhere does this section teach or suggest that the collaboration server system is for receiving a request for assistance and for processing the request for assistance. This section of Waldin does not even mention receiving requests for assistance. In Waldin, requests for assistance are never made. Instead, Waldin teaches that an updater program in the user's computer determines what patch files are necessary and retrieves them (see col. 4, lines 38-40).

In response to Applicant's argument, the Office Action contends that "Waldin discloses the representative sends the update (column 4 lines 35-40)." For several reasons, Applicant respectfully disagrees. First, column 4, lines 35-40 of Waldin teach that an updater program in the user's computer determines what patch files are necessary and retrieves them. Notice that this section of Waldin does not teach or suggest receiving a "request for assistance." Instead, a program in the user's computer retrieves patch files from a server ("The binary patch files 122 are stored on an update data source 124 (a server) which makes the patch files available to an updater program 126." See col. 4, lines 35-38).

For at least these reasons, claim 1 is allowable over Waldin. The dependent claims are allowable for at least the reasons given in connection with claim 1.

Claim 11

Independent claim 11 recites numerous recitations that are not taught or suggested in Waldin. For example, claim 11 recites (emphasis added):

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a rendezvous service, responsive to receipt of a request for assistance generated by a Web browser client operating on said requesting system.

Nowhere does Waldin teach or suggest a service that is responsive to receipt of a request for assistance generated by a Web browser client. In fact, Waldin does not teach or suggest the use of a browser as claimed. The Office Action cites several sections of Waldin (namely, col. 4, lines 1 – 12, 17 – 24 and col. 8, lines 28 – 57). None of these sections disclose or suggest a service that is responsive to receipt of a request for assistance.

FIG. 1 of Waldin shows a user computer 116 coupled to a server 124 and software publisher 118. Waldin does not teach or suggest that either the server 124 or the software publisher 118 receives a request for assistance from a web browser. Requests for assistance are not mentioned in Waldin. Instead, Waldin teaches a program in the user's computer retrieves patch files from a server. "The binary patch files 122 are stored on an update data source 124 (a server) which makes the patch files available to an updater program 126" (see col. 4, lines 35-38).

As another example, claim 11 recites the following:

a rendezvous service ... to initiate communications via the Internet between said requesting system and said support representative system regardless of firewall protection in said requesting system.

Waldin does not even discuss firewall protection. Nowhere does Waldin teach or suggest a rendezvous service that initiates communication between two systems regardless of firewall protection.

Applicant notes that claim 11, for example, recites other recitations regarding firewall protection. Again, nowhere does Waldin even discuss the presence or absence of firewalls.

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For at least these reasons, claim 11 is allowable over Waldin. The dependent claims are allowable for at least the reasons given in connection with claim 11.

IV. Claim Rejections: 35 USC § 103

Claims 10 and 20 are rejected under 35 USC § 103(a) as being unpatentable over Waldin. Applicant respectfully traverses.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicant asserts that the rejection does not satisfy these criteria.

As noted above in connection with Section III, Waldin does not teach or suggest all the limitations in independent claims 1 and 11. Dependent claim 10 depends from claim 1, and dependent claim 20 depends from claim 11. Thus, for at least the reasons given above in Section III, Waldin does not teach or suggest all the limitations in claims 10 and 20.

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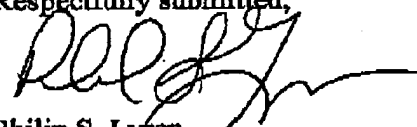
CONCLUSION

In view of the above, Applicant believes all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,


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CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 571-273-8300 on this 12 day of September, 2005.

By


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